

Order 2004-10-9
Served: October 21, 2004



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 18th day of October, 2004

Essential Air Service at

**ALAMOGORDO/HOLLOMAN AIR FORCE BASE,
NEW MEXICO**

Under 49 U.S.C. 41731 *et seq.*

Docket OST-1996-1901

ORDER SELECTING CARRIER

Summary

By this order, we are selecting Westward Airways, Inc., to provide essential air service with nine-passenger Pilatus PC-12 aircraft at Alamogordo/Holloman Air Force Base, New Mexico, for two years at an annual subsidy rate of \$518,870.

Discussion

By Order 2002-4-18, April 22, 2002, the Department selected Edelweiss Holdings, Inc., d/b/a Rio Grande Air, to provide subsidized essential air service at Alamogordo/Holloman Air Force Base to Albuquerque, with nine-passenger-seat Cessna Caravan aircraft at an annual subsidy rate of \$849,235.¹ That service was to consist of a minimum of four nonstop round trips to Albuquerque on each of four weekdays, three nonstop round trips to Albuquerque on the remaining weekday, and five nonstop round trips to Albuquerque over the weekend period. Rio Grande Air inaugurated this service on May 27, 2002. By the terms of Order 2002-4-18, the selection period ended on May 31, 2004. Shortly afterward, on June 22, 2004, Rio Grande Air ceased its commuter air carrier operations.

¹ The community is entitled to service by an aircraft with two engines. (See 49 U.S.C. 41731(b)(5).) Under 49 U.S.C. 40109(c), the Department may grant an exemption from any requirement in Section 41731 (and elsewhere) if doing so is in the public interest. With the community's support, the Department granted such a waiver to select Rio Grande Air.

By Order 2004-6-23, June 25, 2004, the Department solicited proposals on an emergency basis to provide essential air service, with subsidy support if necessary, at Alamogordo/Holloman Air Force Base, New Mexico. Because of the emergency nature of the proceeding, and because the air carrier interest in providing essential air service in New Mexico was perceived to be competitive, Order 2004-6-23 advised carriers that the proposals they submitted would be their final and only proposals; *i.e.*, these proposals would not be subject to negotiation.

The Department received proposals in response to its solicitation from Arizona Express Airlines, Great Lakes Aviation, Ltd., Mesa Air Group, d/b/a Air Midwest, and Westward Airways, Inc. These proposals are summarized briefly in Appendix A. The complete proposals may be accessed online through the Department's Dockets Management System at: <http://dms.dot.gov/> by doing a simple search on docket number 1901.

The Department is prohibited from subsidizing service at communities where subsidy amounts to more than \$200 per passenger, unless they are more than 210 miles from the nearest large or medium hub.² We have determined that Alamogordo/Holloman Air Force Base is less than 210 miles from Albuquerque International Airport, and as we indicated in Order 2004-6-23, the latest passenger traffic experienced at Alamogordo/Holloman Air Force Base are at low levels that constrain the amount of subsidy support that the Department may legally make available. Specifically, based on traffic data that were available at the time Order 2004-6-23 was prepared (2,619 passengers in calendar year 2003), we would not be permitted to pay subsidy in excess of \$523,800 annually (2,619 passengers multiplied by \$200). Based on traffic data corrected and updated beyond that presented in Order 2004-6-23 (2,961 passengers for the twelve months ended March 31, 2004), we would not be permitted to pay subsidy in excess of \$592,200 annually (2,961 passengers multiplied by \$200).

A number of proposal options, including all four of the proposals submitted by Great Lakes Aviation and two of the three proposals submitted by Mesa Air Group, would have required subsidy far in excess of the level of support that the Department may offer. As a result, we notified the community that these options were not selectable.

Community Comments

By letters dated July 26, 2004, we solicited the views of the Mayor and Airport Manager of Alamogordo, the Commanding Officer, Holloman Air Force Base, and the Director, New Mexico Department of Transportation, Aviation Division, as to which carrier they would prefer. We received comments from each community, summarized as follows:

Holloman Air Force Base (a):

By letter dated August 10, 2004, the Commander initially submitted comments supporting the selection of Mesa Airlines. He indicated, though, that if the City of Alamogordo decided to support selection of a different carrier, Holloman Air Force Base would submit a waiver for the twin-engine, 15-passenger-seat or larger aircraft.

² Congress first imposed that eligibility standard in fiscal year 1990 appropriations language and reinstated it each year from 1994 through fiscal 1999. Then, by P.L. 106-69, the Department of Transportation and Related Agencies Appropriations Act, 2000, Congress made it a permanent eligibility standard.

Alamogordo:

By letter dated September 15, 2004, the Mayor of Alamogordo stated that during its September 14 meeting, the City Commission recommended selection of Westward Airways. This recommendation was made contingent upon Westward Airways' applying for membership in the Airlines Reporting Corporation, which in the City's view is essential for providing service to Holloman Air Force Base.

Holloman Air Force Base (b):

By letter dated September 20, 2004, the Commander, Holloman Air Force Base submitted revised comments supporting the selection recommendation of Westward Airways made by the City of Alamogordo. The Commander states that Holloman Air Force Base waives the requirement for a twin-engine aircraft having 15 or more passenger seats for the duration of the prospective selection period. The Commander further concurs with the recommendation of Westward Airways being made contingent upon the carrier applying for membership in the Airlines Reporting Corporation.

Decision on Carrier Selection

In selecting a carrier to provide subsidized essential air service, 49 U.S.C. 41733(c)(1) directs us to consider four factors: (a) scheduled service reliability; (b) contractual and marketing arrangements with a larger carrier to ensure service beyond the hub; (c) interline arrangements that the applicant has made with a larger carrier at the hub; and (d) community views, giving substantial weight to the views of the elected officials representing the users. In addition, we have always given weight to the applicants' relative subsidy requirements.

After a thorough review of the carriers' proposals and the communities' comments, we have decided to select Westward Airways to provide essential air service at Alamogordo/Holloman Air Force Base for a two-year period. Our decision is consistent with the communities' preferences and statutory criteria. The carrier's proposed rate is reasonable, and the carrier's commuter/regional service at the communities it currently serves in Nebraska is satisfactory.

In light of the foregoing, we will select Westward Airways' proposal to provide essential air service at Alamogordo/Holloman Air Force Base. This proposal would provide the community with two and one-half nonstop round trips on weekdays and Sundays and one and one-half nonstop round trips on Saturdays with 9-passenger-seat Pilatus PC-12 aircraft to Albuquerque for an annual subsidy rate of \$518,870. (See Appendix B for a summary of the rate calculations.) This decision maintains service at the community and gives each community party its preferred carrier. The subsidy rate compares favorably with those of Arizona Express Airlines (\$498,787) and the selectable proposal of Air Midwest (\$523,790 for the carrier's Option Number One) for comparable service. Thus, all meaningful selection criteria point to the selection of Westward Airways.

As we indicated above, the Commander, Holloman Air Force Base explicitly waived the statutory requirement of the community to receive service with twin-engine aircraft having 15 or more passenger seats for the duration of the new selection period. By virtue of its supporting selection of the proposal of Westward Airways, we have deemed the City of

Alamogordo to have likewise waived this entitlement for the duration of the selection period. As noted in footnote (1), above, the requirement for service by an aircraft with two engines appears in 49 U.S.C. 41731(b)(5). Under 49 U.S.C. 40109(c), the Department may grant an exemption from any requirement in Section 41731 (and elsewhere) if doing so is in the public interest. Given the community's support, and Westward Airways' operating record, we find it in the public interest to grant an exemption in this case for the requirement for two engines.

As noted above, the City and Air Force Base have requested that we make our selection of Westward Airways contingent upon its applying to join the Airlines Reporting Corporation. They argue that the carrier cannot effectively serve a significant number of potential customers (*i.e.*, all Air Force personnel on official travel to and from Holloman Air Force Base) without Airlines Reporting Corporation membership. It has not been Departmental policy to make essential air service carrier selection contingent on execution of contracts with third parties, nor is the Department well situated to police compliance with such third party contracts. In this case, we are not required to adjudicate this issue since we have been advised by letter dated September 30, 2004, from the Airlines Reporting Corporation that Westward's application process is underway.

We will make this carrier selection at Alamogordo/Holloman Air Force Base contingent upon the Department's receiving properly executed certifications from Westward Airways, Inc., that it is in compliance with the Department's regulations regarding drug-free workplaces and nondiscrimination, as well as the regulations governing lobbying activities.³

Carrier Fitness

49 U.S.C. 41737(b) and 41738 require that we find an air carrier fit, willing, and able to provide reliable service before we may subsidize it to provide essential air service. We last found Westward Airways, Inc., fit by Order 2004-6-5, June 7, 2004, in connection with its application for a certificate of public convenience and necessity under 49 U.S.C. 41102. Since that time, no information has come to our attention that would lead us to question the carrier's ability to operate in a reliable manner. The FAA has advised us that the carrier is conducting its operations in accordance with its regulations, and knows of no reason why we should not find that Westward Airways is fit. Based on the above, we find that Westward Airways is fit to provide the essential air transportation at issue in this case.

This order is issued under authority delegated in 49 CFR 1.56a(f).

³ The regulations applicable to these areas are: (1) 49 CFR Part 20 -- New restrictions on lobbying; (2) 49 CFR Part 21 -- Nondiscrimination in federally-assisted programs of the Department of Transportation -- Effectuation of title VI of the Civil Rights Act of 1964; 49 CFR Part 27 -- Nondiscrimination on the basis of disability in programs and activities receiving or benefiting from Federal financial assistance; and 14 CFR Part 382 -- Nondiscrimination on the basis of disability in air travel; and (3) 49 CFR Part 29 -- Government-wide debarment and suspension (non-procurement) and government-wide requirements for drug-free workplace (grants).

ACCORDINGLY,

1. The Department selects Westward Aviation, Inc., to provide essential air service at Alamogordo/Holloman Air Force Base, New Mexico, as described in Appendix C, effective on the service date of this order through November 30, 2006;
2. The Department sets the final subsidy rate for Westward Airways, Inc., for the provision of essential air service at Alamogordo/Holloman Air Force Base, New Mexico, as described in Appendix C, to be payable as follows: for each calendar month during which essential air service is provided, the amount of compensation shall be subject to the weekly ceiling set forth in Appendix C and shall be determined by multiplying the subsidy-eligible flights completed during the month⁴ to Albuquerque by \$310.14.⁵
3. We direct Westward Airways, Inc., to retain all books, records, and other source and summary documentation to support claims for payment and to preserve and maintain such documentation in a manner that readily permits the audit and examination by representatives of the Department. Such documentation shall be retained for seven years or until the Department indicates that the records may be destroyed, whichever is earlier. Copies of flight logs for aircraft sold or disposed of must be retained. The carrier may forfeit its compensation for any claim that is not supported under the terms of this order;
4. Docket OST-1996-1901 will remain open until further order of the Department; and
5. We will serve copies of this order on the Mayor and Airport Manager of Alamogordo; the Commander, Holloman Air Force Base; the Director, New Mexico Department of Transportation, Aviation Division; Arizona Express Airlines; Great Lakes Aviation, Ltd.; Mesa Air Group, d/b/a Air Midwest, Inc.; and Westward Airways, Inc.

By:

KARAN K. BHATIA
 Assistant Secretary for Aviation
 and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at
<http://dms.dot.gov>*

⁴ Subsidy-eligible departures are defined as each arrival from and departure to the hub from the essential air service point.

⁵ See Appendix C for calculations.

Proposals To Provide Essential Air Service at
Alamogordo/Holloman Air Force Base, New Mexico

Proposal of Arizona Express Airlines

(All service to be provided with 9-passenger, twin-engine, pressurized, B1900D aircraft)

<u>Hub</u>	<u>Number of round trips each service day</u>	<u>Subsidy cost</u>
Albuquerque	2 nonstop	\$498,487

Proposals of Great Lakes Aviation, Ltd.

(All service to be provided with 19-passenger, twin-engine, pressurized, B1900D aircraft)

<u>Proposal number</u>	<u>Hub</u>	<u>Number of round trips each service day</u>	<u>Subsidy cost</u>
1	Albuquerque	3 nonstop	\$1,466,166
2	Albuquerque	2 nonstop	\$1,176,616
3 ¹	Albuquerque	3 nonstop	\$1,240,503
4	Albuquerque	2 nonstop	\$993,910

Proposals of Mesa Air Group, Inc., d/b/a Air Midwest

(All service to be provided with 19-passenger, twin-engine, pressurized, B1900D aircraft)

<u>Option number</u>	<u>Hub</u>	<u>Number of round trips each service day</u>	<u>Subsidy cost</u>
1	Albuquerque	2 one-stop over Roswell, New Mexico	\$523,790
2	Albuquerque	1 nonstop and 1 one-stop over Roswell, New Mexico	\$745,535
3	Albuquerque	2 nonstop	\$848,137

Proposal of Westward Airways, Inc.

(All service to be provided with 9-passenger Pilatus PC-12 aircraft)

<u>Hub</u>	<u>Number of round trips each service day</u>	<u>Subsidy cost</u>
Albuquerque	2 1/2 nonstop on weekdays and Sundays 1 1/2 nonstop on Saturdays	\$518,870

¹ The carrier indicates in its proposal that Proposals Three and Four are offered contingent upon reaching an agreement with the community relative to a risk sharing/revenue guarantee plan that covers the difference in subsidy between Proposal One and Proposal Three or Proposal Two and Proposal Four.

Westward Airways, Inc.
Provision of Essential Air Service at Alamogordo/Holloman Air Force Base, New Mexico
Computation of Compensation Requirement

Average completion factor:	97%
Departures:	1,673
Block hours:	1,422
Revenue passenger-miles:	600,600
Available seat-miles:	2,349,032

Operating revenue:

Passenger revenue:	<u>Market</u>	<u>Passengers</u>	<u>Average fare</u>	<u>Total revenue</u>
	ALM-ABQ	3,850	\$75.00	\$288,750
Other revenue				<u>4,331</u>
Total operating revenue				\$293,081

Operating expense:

Direct operating expense:

Flight crew and training	\$81.43	multiplied by 1,422 block hours annually	\$115,804
Fuel and oil	\$92.54	multiplied by 1,422 block hours annually	131,600
Maintenance	\$85.48	multiplied by 1,422 block hours annually	121,560
Hull insurance	\$10.07	multiplied by 1,422 block hours annually	14,323
Aircraft lease	<u>\$77.63</u>	multiplied by 1,422 block hours annually	<u>110,400</u>
Total direct operating expense:	\$347.15	average expense per block hour	\$493,687

Indirect operating expense:

ALM station expense	\$16.69	multiplied by 3,850 passengers	\$64,260
ALM landing fees	\$5.92	multiplied by 837 ALM landings	4,956
ABQ station expense	\$20.02	multiplied by 3,850 passengers	77,060
ABQ landing fees	\$15.72	multiplied by 837 ABQ landings	13,147
Credit card fees	2.8%	multiplied by \$288,750 passenger revenue	7,963
CRS fees, 3rd party fees, etc.	\$2.85	multiplied by 3,850 passengers	10,957
Liability insurance	\$5.68	multiplied by 3,850 passengers	21,878
Marketing	\$5,000	per essential air service community	5,000
General and administrative	\$19.32	multiplied by 3,850 passengers	<u>74,379</u>
Total indirect operating expense:			\$279,600

Total operating expense: \$773,287

Operating loss: 480,206

Profit element: 5% of total operating expense of \$773,287 38,664

Compensation requirement: \$518,870

Total operating expense per available seat-mile:	\$0.329194
Total operating revenue per revenue passenger-mile:	\$0.487980
Static operating break-even load factor	67%
Average estimated load factor	26%

**Westward Airways, Inc., Essential Air Service To Be Provided at
Alamogordo/Holloman Air Force Base New Mexico, Docket OST-1996-1901**

<u>Effective Period:</u>	Date of inauguration of nonstop turnaround service between Alamogordo/Holloman Air Force Base and Albuquerque through November 30, 2006.
<u>Scheduled Service:</u>	Two and one-half round trips each weekday and Sunday and one and one-half round trips each Saturday to Albuquerque.
<u>Intermediate stops and upline service:</u>	No service to any intermediate point is contemplated under the terms of the carrier's proposal; accordingly, no such service may be provided on subsidized flights without prior Department approval.
<u>Aircraft type:</u>	Pilatus PC-12 (9 passenger seats).
<u>Timing of flights:</u>	Flights must be well-timed and well-spaced in order to ensure full compensation.
<u>Annual compensation:</u>	\$518,870. This rate assumes an annual completion factor of 97 percent. A compensation ceiling is to be applied per calendar week such that service above that ceiling in one week cannot make up for service shortfalls in another week.
<u>Subsidy Rate per Albuquerque Flight:</u>	\$310.14 ¹
<u>Weekly Compensation Ceiling:</u>	\$10,234.62 ²

Note:

The carrier understands that it may forfeit its compensation for any flights that it does not operate in conformance with the terms and stipulations of the rate order, including the service plan outlined in the order and any other significant elements of the required service, without prior approval. The carrier understands that an aircraft take-off and landing at its scheduled destination constitutes a completed flight; absent an explanation supporting subsidy eligibility for a flight that has not been completed, such as certain weather cancellations, only completed flights are considered eligible for subsidy. In addition, if the carrier does not schedule or operate its flights in full conformance with this order for a significant period, it may jeopardize its entire subsidy claim for the period in question. If the carrier contemplates any such changes beyond the scope of the order during the applicable period of these rates, it must first notify the Office of Aviation Analysis in writing and receive written approval from the Department to be assured of full compensation. Should circumstances warrant, the Department may locate and select a replacement carrier to provide service on these routes. The carrier must complete all flights that can be safely operated; flights that overfly points for lack of traffic will not be compensated. In determining whether subsidy payment for a deviating flight should be adjusted or disallowed, the Department will consider the extent to which the goals of the program are met and the extent of access to the national air transportation system provided to the community.

If the Department unilaterally, either partially or completely, terminates or reduces payments for service or changes service requirements at a specific location provided for under this order, then, at the end of the period for which the Department does make payments in the agreed amounts or at the agreed service levels, the carrier may cease to provide service to that specific location without regard to any requirement for notice of such cessation. Those adjustments in the levels of subsidy and/or service that are mutually agreed to in writing by the parties to the agreement do not constitute a total or partial reduction or cessation of payment.

Subsidy contracts are subject to, and incorporate by reference, relevant statutes and Department regulations, as they may be amended from time to time. However, any such statutes, regulations, or amendments thereto shall not operate to controvert the foregoing paragraph.

¹ \$518,870 divided by 1,673 annual departures as shown in Appendix B.

² 33 flights per week * \$310.14.